



FH

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MGE/160037

PRELIMINARY RECITALS

Pursuant to a petition filed August 19, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a hearing was held on September 16, 2014, at Kenosha, Wisconsin.

The issue for determination is whether the agency properly provided Petitioner with medical non-emergency transportation.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Tip Pom

Division of Health Care Access and Accountability

Madison, WI

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Kenosha County.
2. Petitioner is a recipient of MA and is eligible for medical transportation.
3. Medical Transportation Management (MTM) arranges and pays for rides to covered MA services.

4. The Petitioner's ride of choice is [REDACTED], an MA approved provider.
5. On July 8 and August 22, 2014, the Petitioner's ride of choice was denied because [REDACTED] was not the least costly provider available.
6. On August 19, 2014, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

To comply with federal and state law, the Department of Health Services must provide non-emergency medical transportation to covered services for Medicaid and BadgerCare Plus members who have no other way to get a ride to a covered service. Specifically, 42 CFR §431.53 states: A state plan must specify that the MA agency will ensure necessary transportation for recipients to and from providers and describe the methods the agency will use to meet this requirement. The State plan states: "Recipient who require transportation are provided the service by a provider selected by the broker. Recipients (beneficiaries) do not have the option of selecting a provider of their choice." State Plan, Title XIX of the Social Security Act Medical Assistance Program – Wisconsin, Section 3, Attachment 3.1-A.

In June, 2013, the agency notified recipients of a new non-emergency medical transportation manager, MTM, Inc. ForwardHealth Member Update, June, 2013. MTM is required to provide cost-effective transportation and will provide the least costly transportation available for recipients.

On August 1, 2013, Medical Transportation Management, Inc. (MTM, Inc.) began managing non-emergency medical transportation services in Wisconsin.

Based on the regulations, I conclude the agency properly provided medical non-emergency transportation to the Petitioner when it offered transportation, even though it was with a provider that was not the Petitioner's first choice. The approved State plan and MTM contract do not have the option for recipients to select a provider.

I note that on September 18, 2014, the Petitioner received a letter from Disability Rights Wisconsin indicating that [REDACTED] and MTM have re-negotiated rates so that [REDACTED] should be one of the cost-effective providers in his area. It also notes that his file has been updated to indicate that [REDACTED] should be assigned as his provider whenever available.

CONCLUSIONS OF LAW

The agency properly provided medical non-emergency transportation to the Petitioner.

THEREFORE, it is

ORDERED

That the Petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as

"PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

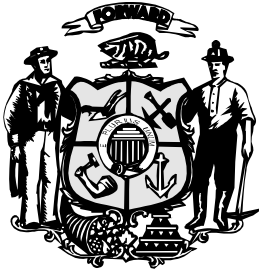
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 21st day of October, 2014

\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on October 21, 2014.

Division of Health Care Access and Accountability
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